

CELL PHONES AND THE RIGHT TO PRIVACY: A COMMENTARY

By Bob Grove, President, Grove Enterprises; Publisher, Monitoring Times

Technically unsophisticated Americans are astounded, and often outraged, upon learning that their cellular telephone conversations are broadcast openly, and that anyone with a variety of receiving devices can listen in. They don't blame the listeners as much as the vendors who sold them the phones with no warning from the salesperson or in the instruction manual. On the contrary, irate customers report being reassured that privacy is not a problem because: it is illegal to listen in; modem scanners don't have cellular frequencies; and their **coversation** will constantly change channels, thwarting would-be listeners.

Scanner owners agree that Americans do deserve a reasonable expectation of privacy, but broadcasting a clear voice into the airwaves and expecting it not to be overheard is not reasonable. They visualize the analogy of walking down a crowded street naked and expecting no one to look, or talking openly in a crowded room and expecting no one to hear.

They feel that the responsibility of security belongs not on the shoulders of the scanner hobbyist, but on the service provider, just as it has always been on wired telephone services, and all other radio communications services, including law enforcement and even cordless telephone manufacturers.

The 1986 Electronic Communications Privacy Act (ECPA) was intended by Congress to expand the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 which failed to address the increasing use of radio surveillance devices; it was not intended to prevent scanner hobbyists from innocently listening to their radios. This is the reason why terms such as "willful," "intentional," and "surreptitious" are in its language. That aberration seems to have evolved later from outside influences, and now the casual scanner listener faces a hefty fine and jail sentence the first time he tunes in one of these readily accessible broadcasts. Public news releases from the Cellular Telecommunications Industry Association (CTIA) have routinely maligned law-abiding scanner owners as eavesdroppers, voyeurs, and even "techno-snoops," a perennial favorite.

With the CTIA an ever-present specter behind listening legislation, the cognizant public perceives the ECPA as a fiscal expedient of the CTIA, lobbied into law to provide a no-cost alternative to offering their customers real privacy, and endlessly blaming the harmless hobbyist for listening to his scanner. Public suspicion is heightened

when they learn that these restrictive regulations are added on as eleventh-hour amendments with little or no time for legislative reflection or public comment, or when hearings such as this one invite their representation at the last minute with virtually no time for preparation.

Americans resent government repression of their rights, and freedom of access to the airwaves has been traditional for decades. But over the last decade, this freedom appears to have been eroded by special interests for their profit advantage. The ECPA and the subsequent Cellular Amendment to the Telephone Disclosure and Dispute Resolution Act (TDDRA) have singularly imposed for the **first** time, listening restrictions in the United States which are more severe than in Canada and some other developed countries.

Among the estimated 10-20 million scanner owners in the United States, flagrant violations are extremely rare, certainly far fewer than among gun owners, and scanners don't kill, yet a hefty **fine** and lengthy jail sentence await the hapless scanner listener who merely tunes in on an anonymous telephone conversation. The general impression by the wary public is that even this hearing may be a facade orchestrated by the cellular industry to impose further restrictions on the general public, thus perpetuating the illusion of privacy, rather than adopting existing technology to provide real privacy to their trusting customers.

If cellular telephone conversations were digitized as long promised by the cellular **industry**, all of these hearings, charges and countercharges, legislation and regulations, indictments and fines, and costly policing of the cellular frequencies-41 at the taxpayers' expense--would be unnecessary. All restrictive laws pertaining to scanner frequency coverage and cellular eavesdropping could be rescinded. No one could hear the conversations. The traditional American freedom of access to the airwaves could be restored.

The public perception of Congress as a shopping mall for big business can be largely corrected by this group of legislators. Instead of indicting citizens for listening to their radios, or **villifying** small businesses who flounder in the quagmire of ambiguous and ineffectual rules and regulations, face the industry. Tell the millions of scanner owners now watching that the only way to insure privacy on cellular telephones is to implement the inexpensive, effective technology promised many years ago; the same low cost, high level privacy offered by other communications services.

GROVE ENTERPRISES, INC.

Since the early 1970's, Bob Grove has been writing articles, books, and instruction manuals for the communications industry. Recognizing the need for a dependable source for radio receiving equipment, accessories, and publications, he founded Grove Enterprises, in 1979.

Our first products were the original Scanner Beam for improved reception of **VHF/UHF** signals, the ***Federal Frequency Directory*** as an accurate reference guide to monitoring the spectrum, and the Signal Enhancer for amplifying weak radio signals. Continued requests for innovative products expanded the operation **from** its humble beginnings in one room of a house, to its current position of leadership in the communications industry.

Over the past two decades, Grove Enterprises has earned its international reputation for authority and integrity. Besides providing radio receivers, scanners, satellite equipment, accessories and software to government, news gathering and educational institutions and individuals worldwide, Grove also publishes ***Monitoring Times*** and ***Satellite Times***, the leading magazines dedicated to monitoring the communications spectrum.

In August of 1995, Grove Enterprises, Inc. expanded its business focus and became an Internet service provider. Grove maintains a diverse **website** at <http://www.grove.net>, integrating all of the various aspects of the company. As an Internet service provider, Grove offers numerous services locally and worldwide. One example is free ***Internet service*** to all schools, libraries, and Chamber of **Commerces** in two counties of Western North Carolina. Grove Enterprises is an avid supporter of education.

Among the accomplishments of Grove Enterprises are: Southern Economic Development Award (Top Award, 11 states, 1993), Western North Carolina Community Development Award (1993), Amateur Satellite (**AMSAT**) Corporation Recognition (1984), Sangean Dealer Award (1995), Internet Shopping Network Choice Site (1996), and more. The owner, Bob Grove, has been a featured speaker at the Association of North American Radio Clubs, Dayton Hamvention, Orlando Hamfest, Atlanta Hamfest, REACT International, Surveillance Expo, and many more. He has also appeared on Good Morning America, Jane Pauley, and CNN. Mr. Grove has also been featured and quoted in reputable publications across the U.S. including ***Time Magazine*** and ***The Washington Post***.

Mr. Grove received his Bachelor of Arts Degree **from** Kent State University and his Master's Degree from Florida Atlantic University. He also holds an FCC amateur radio license (Advanced Class), and has been licensed since 1951. Mr. Grove was a teacher in the public educational system for 16 years before founding Grove Enterprise, Inc. His teaching background and belief in quality education is the reasoning behind free Internet services to all schools and libraries in his community.